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**OFFICE OF PETITIONS**

HEWLETT-PACKARD COMPANY  
Intellectual Property Administration  
P.O. Box 272400  
Fort Collins CO 80527-2400

In re Application of	:	
John R. Milton	:	
Application No. 09/938,465	:	DECISION ON PETITION UNDER
Filed: August 23, 2001	:	37 C.F.R. §1.181(A)
Attorney Docket Number:	:	
10010979-1	:	
Title: SYSTEM AND METHOD FOR	:	
TRACKING PLACEMENT AND USAGE OF	:	
CONTENT IN A PUBLICATION	:	

This is a decision on the petition under 37 CFR §1.181(a), filed January 24, 2006, to withdraw the holding of abandonment.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR §1.113 in a timely manner to the final Office action mailed April 21, 2005, which set a shortened statutory period for reply of three (3) months. An after-final amendment was received on May 25, 2005, and an advisory action was mailed on June 13, 2005. No further responses were received, and no extensions of time under the provisions of 37 CFR §1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 22, 2005. A notice of abandonment was mailed on December 23, 2005.

With the present petition, Petitioner has asserted that he did not believe that any action needed to be taken after receiving the advisory action, due to a telephone conversation he allegedly had with the Examiner. Petitioner asserts that he was informed over the phone that a new office action would be forthcoming - and thus he "took no further action in the case<sup>1</sup>," relying on this oral promise.

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<sup>1</sup> Petition, paragraph 8.

In short, Petitioner decided it best to discount the advisory action, based on an understanding he purportedly had with the Examiner. 37 C.F.R. §1.2 sets forth, *in toto*:

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

As such, Petitioner cannot rely on the oral assurance which was allegedly made by the Examiner, and this petition must be **DISMISSED**.

**NOTICE:**

Any request for reconsideration of this decision under 37 C.F.R. §1.137(a) must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The request for reconsideration should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181," and should only address the deficiencies noted in this decision.

**Thereafter, there will be no further reconsideration of this matter<sup>2, 3</sup>.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries

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<sup>2</sup> For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Loudon, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R. §§1.181, 182, 183.

<sup>3</sup> If, on the second request for reconsideration, Petitioner fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will **not** apply to that decision.

concerning examination procedures or status of the application should be directed to the Technology Center.

Petitioner may wish to consider filing a petition under 37 C.F.R. §§1.137(a) or (b). No assurance can be made that any remedy will be forthcoming.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at <http://www.uspto.gov/web/forms/sb0122.pdf>.



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